# Proposed Legislative Amendments to Michigan Mold Lien Act and Michigan Special Tools Lien Act

Presented by

David S. Lefere

Bolhouse, Vander Hulst, Risko, Baar & Lefere P.C.

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#### **Current Lien Acts**

- MMLA MCL 445.611 et. al. (See Tab 1)
- MSTLA MCL 570.541 et. al. (See Tab 2)
- Enacted in 2002 to remedy longstanding problem of collecting payment when no longer in possession of tool/mold. (See Tab 3 – House Leg. Analysis)

### Perfecting a Lien Under the Current Lien Acts

- Permanent recording on tool/mold
- File UCC Financing Statement

### Beginning of the Amendment Movement

- Rep. Fulton Sheen's February 2008 House Bill 5764
   (See Tab 4).
- House Bill 5764 did not address all of the obstacles and loopholes in the current lien Acts.
- Began process of setting forth all of the major obstacles and loopholes to incorporate into new proposed amendments.

#### A. Permanent Recording Requirement

#### 1. Problems

- a. Recording can and is removed (See Tab 5).
- b. Contracts do not allow tool shop information (See Tab 6).

#### A. <u>Permanent Recording</u> <u>Requirement</u>

#### 2. Solution and Recommendation

- a. Eliminate Requirement.
- b. Attachment upon delivery.

### B. 90 Day Waiting Period

#### 1. Problems

- a. No Negotiation.
- b. New Tools can be built.
- c. Extends payment terms even further, no incentive to pay prior to termination of 90 day period.

#### B. 90 Day Waiting Period

#### 2. Solution and Recommendation

- Change to 45 Day Waiting Period.

### c. <u>Possession v. Immediate</u> <u>Possession</u>

#### 1. Problem

- Acts currently state "possession".

### c. <u>Possession v. Immediate</u> <u>Possession</u>

#### 2. Solution and Recommendation

- Change to "Immediate Possession".

### D. Attorney Fees and Costs

#### 1. Problem

- Acts currently do not provide for recovery of attorney fees or costs.

### D. Attorney Fees and Costs

#### 2. Solution and Recommendation

- a. Include Attorney Fee and Cost Provision.
- b. Incentive to pay amounts owed

### E. Waiver of Rights Language

#### 1. Problem

- Tier One Suppliers and OEMs Contracts requiring Tool/Mold Shops to Waiver Statutory Rights (See Tab 7).

### E. Waiver of Rights Language

#### 2. Solution and Recommendation

- Any waiver language to be considered void and unenforceable as against public policy.

### F. Application of Other Laws

#### 1. Problem

- Contracts causing Tool/Mold Shops to be subject to other laws rather than MMLA or MSTLA.

### F. Application of Other Laws

#### 2. Solution and Recommendation

- Any application of another law to be considered void and unenforceable as against public policy.

### **Proposed Amendments**

■ See Tabs 8 and 9.

## Not Re-Creating the Wheel

Ohio Lien Law has all of the proposed amendments within its current form.

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THANK YOU
FOR ATTENDING

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